

February 3, 2009

1

TOWN OF NEW WINDSOR

PLANNING BOARD

FEBRUARY 3, 2009

MEMBERS PRESENT: JERRY ARGENIO, CHAIRMAN
NEIL SCHLESINGER
HENRY VAN LEEUWEN
DANIEL GALLAGHER

ALSO PRESENT: MARK EDSALL, P.E.
PLANNING BOARD ENGINEER

MICHAEL BABCOCK
BUILDING INSPECTOR

ABSENT: HOWARD BROWN
HENRY SCHEIBLE

DOMINIC CORDISCO, ESQ.
PLANNING BOARD ATTORNEY

MYRA MASON
PLANNING BOARD SECRETARY

REGULAR_MEETING

MR. ARGENIO: I want to welcome everybody to the February 3, 2009 meeting of the Town of New Windsor Planning Board. I'm just going to explain for the record what's going on tonight. We're here in the Supervisor's conference room conducting this meeting

because it's a special meeting. We postponed the last meeting due to weather and rescheduled it for this evening so as to not back town business up. Well, we got weather today too, we were going to have this meeting in the Morasco Center but the ice and snow prohibited us so we're having it in the Town Supervisor's conference room. The applicants are going to wait outside in the lobby in Arlene's office and the hallway, I have invited the members of the public in here in the conference room with us, Mr. Bedetti and Mrs. Newlander are with us and that should be enough of an explanation to get started.

REORGANIZATION_MEETING

MR. ARGENIO: We had our reorganization meeting this evening before this where we critiqued each other and we came up with a plan for this coming year. I'll accept a motion from somebody if somebody has a motion for chairman for this coming year.

MR. VAN LEEUWEN: So moved Jerry Argenio.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that I be chairman. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. SCHLESINGER: I'll make a motion for Henry Van Leeuwen for vice chair.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded for Henry Van Leeuwen for vice chair.

ROLL CALL

MR. SCHLESINGER AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE.

MR. ARGENIO: I'll ask for a motion for Neil Schlesinger as secretary.

MR. GALLAGHER: So moved.

MR. VAN LEEUWEN: Second it.

MR. ARGENIO: Motion has been made and seconded that Neil be secretary for the planning board for 2009. I'll have a roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: With that aside, I'd like to make a motion that we retain the services of our two professionals again for another year, that's the firm of Drake Loeb and the professional firm of McGoey, Hauser & Edsall, Mark Edsall as our professionals for the coming year.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded Roll

call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: We'll retain Franny, again, I'll make that motion.

MR. GALLAGHER: So moved.

MR. VAN LEEUWEN: Second it.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: That official business aside, I would like to take us directly to the first item on the agenda.

ANNUAL_MOBILE_HOME_PARK_REVIEW:

SILVER_STREAM_MOBILE_HOME_PARK

MR. ARGENIO: We have here this first one the Silver Stream Mobile Home Park. Mike, has somebody from your office been there? Do you have anything?

MR. BABCOCK: Yes, we do, I don't know if the applicant's here.

MR. ARGENIO: Let the record reflect nobody's here for Silver Stream Mobile Home Park. We're going to table Silver Stream, if they come in, we'll get back to that.

BRITTANY_TERRACE_MOBILE_HOME_PARK

MR. ARGENIO: I see Mr. Peter Kean in the audience for Brittany Terrace Mobile Home Park. Mike, has somebody from your office been out to Brittany Terrace to take a look around, see how the place is?

MR. BABCOCK: Yes, we have, Mr. Chairman.

MR. ARGENIO: What say you, Mike?

MR. BABCOCK: Everything is fine there and there's a fee of 470.

MR. ARGENIO: I see Mr. Kean here, have you brought a check in favor of the Town of New Windsor for \$470?

MR. KEAN: I brought a check for 385 for the site and \$100 for some kind of a new fee.

MR. ARGENIO: We'll take that, that will work for us.

MR. KEAN: I'm curious as to what the \$100 is for?

MR. BABCOCK: It's the fire inspection fee that started January 1st of this year.

MR. KEAN: That's an annual thing?

MR. BABCOCK: That's an annual thing.

MR. KEAN: It's 385 for the sites?

MR. BABCOCK: It's 370, you're saying 385 because that's the number of sites, we charge for the number of mobile homes so it would be 470 total.

MR. KEAN: You can give me a credit then.

MR. BABCOCK: We can take care of that.

MR. ARGENIO: You okay with that?

MR. KEAN: Sure.

MR. BABCOCK: We don't charge for the amount of sites, it's the amount of homes.

MR. KEAN: That's what you're supposed to do.

MR. BABCOCK: We counted wrong maybe.

MR. ARGENIO: I'll accept a motion we extend--

MR. KEAN: The only other comment I can make I'm curious as to why I don't have any trouble with the annual fee but we have to pay for it, for an inspection fee when the building inspector comes out fee after fee after fee and neither am I crying we can't afford it, it's just that what are we offering our money for, building inspection, pay for state licenses, pay for taxes, we're the only form of housing in the town and we get soaked for a fee every year.

MR. BABCOCK: Well, nothing has changed as far as the planning board fees, as far as the planning board thing, the only thing that's changed is the extra \$100 fire inspection fee which is yearly, started January 1st.

MR. KEAN: Okay.

MR. ARGENIO: Does that answer your question?

MR. KEAN: That's my speech.

MR. ARGENIO: Okay, anybody sees fit, I'll accept a motion that we extend their special use permit for one year.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that we offer Brittany Terrace one year extension on their special use permit to operate. I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

ZBA_REFERRALS:

POUGHKEEPSIE_PROPERTIES_SUBDIVISION_(09-03)

MR. ARGENIO: We have a unique first regular item on the agenda is Poughkeepsie Properties Comercial subdivision on Executive Drive. This application proposes subdivision of the 2.51 acre parcel into two non-residential lots. The plan was reviewed on a concept basis only. Mr. Shaw junior I see is here representing this, this is for a zoning board referral. What do you have for us tonight, Mr. Shaw?

MR. SHAW: Basically I have the site plan in front of me and I am tonight here asking for a request to go to the Zoning Board of Appeals for two variances for the subdivision of this lot.

MR. ARGENIO: What prompted this, Greg?

MR. SHAW: Well, my client is looking for the flexibility of potentially down the road selling off one of these, the building, and that being said, he's looking to subdivide the lot into two lots that way down the road if he wishes to sell off both or one he can do that.

MR. ARGENIO: What are your zoning issues?

MR. SHAW: The lot 1 which is the existing building at the building height currently right now it's 16 feet and we're requiring an extra five feet because of the average height of the building at the front. The building is, building pretty much slopes from 15 feet high, grade drops down to 27 which gives an average height of 21. We're providing 16 so we needed an extra five feet to go forward for lot 1 and lot 2 it's the minimum lot width right now we're only providing 80 and I believe zoning calls for 150 so we're looking for another 70.

MR. ARGENIO: Show me where you measured the 80.

MR. SHAW: Lot number 2, this is the lot line for lot number 2 and the front yard setback and right here I'm only getting 80 feet and that's the reason the configuration is due to merging the existing with the newly proposed that was approved getting all the parking in.

MR. ARGENIO: I was going to ask you is that, does the parking stand alone for each building and is it in compliance with the code?

MR. SHAW: Yes, both lots.

MR. VAN LEEUWEN: Can I ask you who owns this property?

MR. SHAW: Poughkeepsie Properties, Mark Raphael.

MR. VAN LEEUWEN: Don't belong to Mr. Helmer then Bill Helmer?

MR. SHAW: No, they don't.

MR. ARGENIO: Mark, this has to go to County Planning, is that right? I'm questioning the timing of the subdivision to go to the county in that we require substantial fitness of the plans prior to this referral. Are we to that point? What kind of shape are these plans in from a technical standpoint?

MR. EDSALL: It's complete, reminding you that you had a complete site plan that you have already approved, this is merely striking a division line, that's all they're doing, we can have Myra do a joint referral with zoning board and planning board if the board is so inclined.

MR. ARGENIO: I think we should do that, don't you

guys? No reason not to. Do a joint referral to the County Planning Department. Nothing on SEQRA. Planning board should defer any activity until such time as the plan returns from the ZBA. Yes, I agree, yes, as such, I'll accept a motion that we declare this applicant incomplete at this point.

MR. SCHLESINGER: So moved.

MR. VAN LEEUWEN: Second it.

MR. ARGENIO: Motion has been made and seconded that Poughkeepsie Properties be declared incomplete at this time. As such, you'll be referred to the zoning board. I'll have a roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Guys, we'll see this again, you've been referred to the Zoning, Mr. Shaw, good luck to you. I wouldn't think that there should be any issues here, I wouldn't think. Is there anything I'm missing here, Mark?

MR. EDSALL: No, again, you have already looked at the site plan very closely so it's a division line.

MR. ARGENIO: Okay, thank you Mr. Shaw.

MR. SHAW: Thank you.

REGULAR_ITEMS:

OMNIPOINT_COMMUNICATIONS_SITE_PLAN_&_SPECIAL_PERMIT_

(09-01)

MR. ARGENIO: Regular items Omnipoint Communications site plan. Proposed 120 foot monopole and related structure at 111 Windsor Highway. This application proposes construction of a 120 foot monopole telecommunications tower on the 49 plus or minor acre parcel. This is the Borchard Orchard off Union Avenue and New York State Route 32. This plan was reviewed on a concept basis only. Do you guys know where this is? This is like behind I want to say Duffer's next to Devitt's behind Duffer's, it's the orchard, it's in the orchard. So can you folks tell us what you want to do here? Can you give us a brief overview?

MR. WARDEN: Sure, let me give you a quick overview, Doug Warden, I'm an attorney with the law firm of Schneider and Schneider on behalf of Omnipoint here for special use permit site plan approval to allow the location of wireless telecommunications facility at 111 Windsor Highway and the facility will consist of 120 foot monopole located on the property that presently uses an apple orchard, Borchard Orchards, it's a 49 acre property. And the facility will consist of again of 120 foot monopole, 6 panel antennas on top and there will be the 3 equipment cabinets at the base of the monopole enclosures surrounded by a 6 foot chain link fence with green vinyl slats and the antennas reach 72 inches tall, six inches wide and three inches deep and the poles have been designed so there's room structurally on it otherwise for three additional collocating carriers in the events that other carriers should decide that they have wireless telecommunications needs in the vicinity of the proposed site and this would presumably reduce the need for, reduce unnecessary proliferation of other future monopoles in the area. We have submitted a variety of

the materials in support of the application, including an affidavit from a radio frequency engineer indicating he's looked at the tall structures within two miles of the proposed facility over 35 feet and he's concluded that where we plan to locate our antennas that they wouldn't provide the necessary coverage to remedy on those tall structures.

MR. ARGENIO: Wait a second, my first question was going to be why aren't you locating on the Snake Hill tower? That's why that tower is up there on that mountain precipice, whatever you'd like to call it, why weren't you--you have a report that says that that tower doesn't work?

MR. WARDEN: Yes, sir, there's an exhibit I think it's Exhibit 1 of our memorandum in support, that affidavit I was just referencing and I think Exhibit A of that, excuse me, Exhibit A indicates that we're already on that tower and so going on there would just provide redundant coverage, if I'm correct, so the Snake Hill tower is not going to work, it doesn't reach far enough. This is line of sight technology and the signal doesn't propagate into infinity, it has spatial restrictions.

MR. ARGENIO: So you're on that tower now on Snake Hill?

MR. WARDEN: Yes, sir.

MR. ARGENIO: And this location is going to give you coverage somewhere that you don't have with the Snake Hill tower?

MR. WARDEN: We have a two mile gap on Route 32 Windsor Highway and that Snake Hill is not reaching that, there's an, it's a major thoroughfare and that's really, that's the primary coverage or objective as far as this application is concerned. I can, if you look

at the memo in support, the affidavit that I'm talking about it really does a pretty exhaustive job of showing where the gap is, showing where, why we have a need and also showing why these other alternatives including the Snake Hill tower aren't going to work for us right now.

MR. ARGENIO: Are you aware of this, this memorandum?

MR. EDSALL: Yes, if you look at my comments the second paragraph under comment 1 acknowledges their indication that they already have a system or facility on Snake Hill, I question the amount of coverage provided by that tower and whether or not there's any upgrades that would be effected that increase the coverage area, it seems like a very small coverage area for that tower.

MR. ARGENIO: I'm certainly not an engineer but I will tell you that from a town resident point of view I don't think anybody likes these cell towers, while everybody does like to use a cell phone, nobody wants the towers, unfortunately, that's the reality of it and my point I was going to make before is I'm not an engineer but I don't understand how that tower on Snake Hill can't work with some kind of repeater or signal or upgrade device of sorts.

MR. GALLAGHER: We're less than a quarter of a mile from the new tower, correct, I mean--

MR. WARDEN: I'm not sure what the exact distance is, is that something you're prepared to discuss?

MR. SCHLESINGER: I don't think the distance is the issue, I mean this is your tower, obviously you did some planning and some homework before you put in the tower on Snake Hill. Was it a blunder? Was it a lack of homework or without being an engineer like Jerry said, I'm not an engineer, none of us our engineers, is it an engineering issue, is it an engineering issue that can be addressed and cured?

MR. WARDEN: It wasn't a blunder, this is a technology that just doesn't provide--

MR. SCHLESINGER: I don't know anything about it.

MR. WARDEN: You know, it's a technology that doesn't provide infinity coverage, just because you have a high point doesn't provide infinity coverage. It's a line of sight, if there's a ridge in the way or if you're outside of the coverage area you're not, just not going to reach it, that's why they call it cell tower, you know, cellular telecommunications because it's a lot of small, discreet they call them cells, small areas and they're all interconnected in order to provide seamless coverage and our signal from that tower is just not going to propagate any, you know, we're not really interested in just building, paying money to build towers that we don't need, we have a coverage game and that's not, that we have to fill and it's an important thoroughfare, everybody wants to get their coverage from Route 32, it's not going to reach--

MR. SCHLESINGER: I'm not in your business but as a business person if I was going to make the expense, time and effort to put in a tower I would have some sort of signal device, this is totally layman's terms and say hey, guys, we want to cover Route 32 15 miles, whatever it may be, are we going to get the signal? Now you're saying well, we're not getting a signal so we've got to put up another tower.

MR. WARDEN: We're restricted by the technology that we have, it's not, you know, unfortunately it's not magic technology, we have to have the facilities within a close proximity to the gap in coverage that we're trying to provide, you know, and if it would help the board we'd be glad to submit a more thorough explanation to the board that the board can look at in addition to the report that we have already submitted.

MR. ARGENIO: You're an attorney. Are you guys technical guys?

MR. WARDEN: I have a radio frequency engineer here this evening.

MR. ARGENIO: Are you guys technical guys? Is this Nextel, Verizon, who is it?

MR. WARDEN: We're Omnipoint, T-Mobile.

MR. ARGENIO: All right, Mark, let me ask you a question, I don't want to beat this engineering thing to death, I want to read from your comments notwithstanding their reference to the consideration of the Snake Hill tower which they signed, they operated, their analysis does not appear to consider an upgrade of the facilities at that location nor do they provide a computer model to evaluate the coverage area that would result with such an upgrade. In my opinion, that's Mr. Edsall's opinion, this is an alternative that should be required since Section 300-28 (e) requires that the applicants demonstrate that shared use is impractical or the existing facility can be modified or altered to be usable before the new tower can be considered. In your opinion, have they not exhausted all the opportunities with other towers in the area? That's how I interpret this.

MR. EDSALL: Yeah, again, I'm not, radio frequency is not my specialty, the board could always bring in a consultant to look at this more closely and do a more thorough review but I, in what you might call engineering layman terms it's, I'm not an RF engineer, I want to be convinced there is no--

MR. ARGENIO: You'e not convinced?

MR. EDSALL: I'm not convinced that that's been

thoroughly exhausted from my experience in the past has been on other towers there have been other upgrades effected that have increased the coverage area, I want to see an affidavit and see that with thorough information there's absolutely no way to upgrade Snake Hill to provide additional coverage because it's as you say right there.

MR. ARGENIO: Henry and Dan briefly do you agree with the direction Mark is going with that or I think it makes sense.

MR. VAN LEEUWEN: I think he's right.

MR. GALLAGHER: Yeah, I mean, to me, this seems like there's going to be two towers so close to where, I mean, how much more coverage are we getting with the one tower that's going to be only a quarter of a mile away?

MR. ARGENIO: Neil, what do you think?

MR. SCHLESINGER: I think I expressed it in what I said before, I agree that we ought to try to cure the problem with the situation we have now rather than go ahead and put in another tower and I'd like to make sure that that possibility is exhausted.

MR. ARGENIO: I do believe that there's not a lot of ambiguity.

MR. WARDEN: Be glad to get you the affidavit that you're looking for in addition if it would help the board we have a radio frequency engineer who can give you a little bit of testimony just for your informational purposes this evening or we'd be glad to just reduce it to affidavit format and submit it to show you that there's no magic modification that we can do, we'll be glad to detail it in the form that Mr. Edsall has requested. We're here to work with you and

get you everything you're looking for.

MR. VAN LEEUWEN: This Omni, are they a separate company, they're not involved with Verizon or any of those?

MR. WARDEN: That's right, it's entirely a separate carrier, perhaps Mr. Edsall is thinking of another carrier, they all use different technology, different radio frequencies.

MR. ARGENIO: I'm okay with everything you're saying, quite frankly, but with the exception of the fact that if our engineer who we put great faith in his integrity and his judgment if he's not convinced of it then there is a gap there and I think you need to do the latter of what you described, get that information to Mark so he is comfortable and confident that there are no upgrades to be made and that this is, the erection of a new tower is the only option that you guys have open to you at this point in time.

MR. WARDEN: We'll be glad to do that.

MR. EDSALL: With the board's permission, if I can have your authorization to as needed maybe bring someone in so if we have a meeting, a special consultant.

MR. ARGENIO: I think that's a good idea. Do you guy's agree with that?

MR. VAN LEEUWEN: I so move.

MR. WARDEN: Can I make one request? There are some consultants out there and there are consultants, some aren't qualified, there are guys out there who are structural engineers.

MR. VAN LEEUWEN: Well, I think we have to leave that up to our town engineer.

MR. WARDEN: What I'm saying--

MR. VAN LEEUWEN: He's smart enough to take care of that.

MR. WARDEN: We'd be glad to provide you a list of qualified people, these are not people that work for us, these people work for the municipalities just to help him in his search.

MR. ARGENIO: I think I'll get the support of the other members here and this is the, Mark Edsall and his firm are very competent and very objective and I'm certain that if he feels that he doesn't have somebody that can offer him the information in the objective honest fashion that he wants it he'll call you guys. I'll leave it up to him. You guys okay with that?

MR. WARDEN: We're available if you want to rely on us for some ideas.

MR. ARGENIO: I didn't even move to the second page and I'm not going to move to it until we get passed this issue because the second page is really moot of your comments.

MR. EDSALL: They could very easily at least go over the comments and be prepared to adjust the plan if we come to the conclusion that there's no alternative but this tower.

MR. ARGENIO: Do you have a copy of Mark's comments?

MR. WARDEN: Yes, I was just handed them.

MR. ARGENIO: That'd be great, okay, thank you very much.

MR. WARDEN: So the process is I should call Myra Mason

and get the deadlines for subdivision?

MR. ARGENIO: No, I think you should talk to Mark, get ahold of Mark and he'll tell you what he's looking for and we need to iron this whole thing out before we do this.

MR. WARDEN: Thank you all for your time and drive safely this evening.

MR. ARGENIO: Thank you, you too.

RAY'S_TRANSPORTATION_SITE_PLAN_(09-02)

MR. ARGENIO: Ray's Transportation is next but they called Myra yesterday and they asked to be removed because they're going to make some modifications to their plans, I assume at your direction, Mark?

MR. EDSALL: Well, there were, very briefly, there were some inconsistencies between the plan that was submitted and the discussions that occurred with the applicant, their attorney, Stu Rosenwasser and myself at the workshop, I pointed out those inconsistencies to Mr. Rosenwasser and I think internally they discussed that it would be in their best interest to revise the plan and resubmit so they asked to be off the agenda.

DRAGOS, _GAZZOLA_ & _ARMENDAREZ_ LOT LINE CHANGE_ (09-04)

MR. ARGENIO: Dragos. This application proposes conveyance of approximately 3.07 acres from lot 74.3 to lot 70. The plan was reviewed on a concept basis only. Can you tell us the firms you're with, introduce yourself for the benefit of the stenographer and tell us what you want to do.

MR. ARMENDAREZ: Jose Armendarez, I'm one of the owners, this is Mr. Dragos, the other owner and there's Mr. Nash Ghali, our representative.

MR. ARGENIO: Who's he with?

MR. ARMENDAREZ: Abstract Inc.

MR. ARGENIO: Okay, somebody tell us what you want to do here.

MR. SCHLESINGER: Can you tell us where this is?

MR. DRAGOS: Vascello Road, Beaver Dam Lake.

MR. ARGENIO: So you're going to extinguish that lot line up there?

MR. ARMENDAREZ: And this lot here.

MR. GHALI: And add this piece into this lot here.

MR. ARGENIO: This is the lot line here, is that correct?

MR. ARMENDAREZ: Correct, right here.

MR. SCHLESINGER: How do we stand right now?

MR. ARMENDAREZ: Mr. Dragos owns this whole lot here, we own this lot here, okay, Mr. Dragos is selling us

3.8 acres.

MR. SCHLESINGER: So you're changing that line to over here?

MR. GHALI: Correct.

MR. SCHLESINGER: The horizontal to the vertical.

MR. VAN LEEUWEN: Can I ask you--

MR. ARGENIO: We're going to create a non-conforming lot, is that right?

MR. ARMENDAREZ: Well, this is going to be 1.17 acres.

MR. BLYTHE: How much does that leave you?

MR. DRAGOS: About 1.17.

MR. ARGENIO: I want to try to make sure only one person is talking at a time so Franny doesn't get all twisted up over there. You had a question, Mr. Dragos, point to your property please.

MR. DRAGOS: Right here. Currently, it's this red line here, my house is over here, okay, what I'd like to do is I'd like to sell this piece back here so that it becomes part of this property and I'll stay with this over here.

MR. ARGENIO: So Mr. Gazzola is going to buy that property from you and he has frontage on Vascello Road?

MR. DRAGOS: Yes, the only frontage I have is on Lakeside.

MR. ARGENIO: These are conforming lots after the subdivision?

MR. EDSALL: Well, lot number if the Dragos lot which is the one to the left currently has some pre-existing non-conforming conditions which would continue that little flag configuration.

MR. ARGENIO: We're not making them any worse.

MR. EDSALL: You're not making them any worse, we do need to have a more complete bulk table to make sure there are no other problems but I don't see any at this point.

MR. ARGENIO: What are you missing on the bulk table?

MR. EDSALL: Well, the normal procedure on a lot line change is provide before and after numbers complete for both lots so I can work with them on that, it's not a difficult thing.

MR. ARGENIO: Have you or somebody in your office verified these numbers and offsets and such?

MR. EDSALL: We don't physically go out and measure things but what I'm saying is looking at the plan I don't see any need to send it to the Zoning Board.

MR. SCHLESINGER: Jerry, I have a question, what's the zoning?

MR. EDSALL: R-4, one acre.

MR. ARGENIO: I asked the same thing a moment ago.

MR. EDSALL: One of the things that I had asked to have clarified was the availability of utilities for each lot, what you have for utilities.

MR. ARGENIO: Can somebody share with us?

MR. ARMENDAREZ: Yes, here we have, it's the sewer is

Town of New Windsor sewer, this lot is vacant, our house is here and it's sewer and well water.

MR. EDSALL: So it's well and public sewer and what about Dragos off Lakeside?

MR. DRAGOS: Same thing.

MR. EDSALL: You've got existing sewer?

MR. DRAGOS: Yes.

MR. EDSALL: Cause we've had lot line changes where the septic system ended up on the wrong lot.

MR. DRAGOS: There's an easement to take the sewer out to Vascello Road, it goes through the Smith's property through here, that's for the sewer and our well is over here.

MR. EDSALL: Because the plan should indicate that there's public sewer and wells.

MR. ARGENIO: Unless there's something hidden behind the man behind the curtain there's not a lot going on.

MR. EDSALL: No, to be honest with you, you can probably take care of procedural items 3, 4 and 5.

MR. ARGENIO: If anybody sees fit, I'll accept a motion that we declare ourselves lead agency under SEQRA.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion's been made and seconded that the Town of New Windsor Planning Board declare itself lead agency under the SEQRA process. Roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: Again, if anybody sees fit, I'll accept a motion to declare negative dec.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Roll call.

ROLL CALL

MR. SCHLESINGER AYE
MR. GALLAGHER AYE
MR. VAN LEEUWEN AYE
MR. ARGENIO AYE

MR. ARGENIO: What about number 5, anybody have any commentary on number 5?

MR. SCHLESINGER: Not necessary.

MR. GALLAGHER: I don't believe so.

MR. VAN LEEUWEN: Pretty simple.

MR. SCHLESINGER: Nothing's being done other than drawing a different line, right?

MR. ARGENIO: I think I agree, I mean, if there's any construction proposed at some point in time it's down the road. Mark, are we missing anything?

MR. EDSALL: It's a simple lot line change.

MR. ARGENIO: I'll accept a motion we waive the public hearing.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board waive the public hearing for the Dragos, Gazzola & Armendarez lot line change. Roll call.

ROLL CALL

MR. SCHLESINGER AYE

MR. GALLAGHER AYE

MR. VAN LEEUWEN AYE

MR. ARGENIO AYE

MR. ARGENIO: Mark, talk to me, am I missing anything else here?

MR. EDSALL: I would prepare the necessary application resolutions and I'll work with the applicant on fixing the bulk table issues, if you want to authorize the signing of the resolution, if you feel comfortable with that, I can check the plan before it's stamped, there's really not much to it.

MR. ARGENIO: I will accept a motion that we authorize the attorney to draft the final approval resolution for this and authorize me to sign it or Neil to sign it, he's the secretary, subject to the cleaning up and updating of the bulk tables to Mark's satisfaction. I'll have a motion to that effect.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded that we draft final resolution approval authorizing Neil and myself to sign it for Dragos, Gazzola & Armendarez lot line change subject to what I read in just a few moments ago.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you folks for coming in.

MR. BLYTHE: How are you making out with Retcho at this point in time, has that settled down?

MR. DRAGOS: It's quieted down.

MR. BLYTHE: I know he's had a longstanding problem with that neighbor.

MR. ARGENIO: The issue, Mike, is if they're going to do some building or something at some such time at a later date, right now we're just moving lot lines.

MR. DRAGOS: He's very aware of that whole situation and I'm not--

MR. BLYTHE: I haven't seen you in a while.

MR. DRAGOS: I don't want to bother you with it.

MR. ARGENIO: Mike, if there were structures shown on the plan, new structures I think it would be a different discussion.

MR. BLYTHE: All right.

February 3, 2009

29

MR. ARGENIO: Okay, thank you folks.

ED_BIAGINI_SUBDIVISION_(08-04)

Mr. Jonathan Cella appeared before the board for this proposal.

MR. ARGENIO: Ed Biagini. This application proposes subdivision of the 2.68 plus or minus acre parcel into three single family residential lots. The plan was previously reviewed at the 27 February, 2008 planning board meeting. Mark, I know we've seen this at least twice, at least twice, at least twice if it's the same one I'm thinking of.

MS. BIAGINI: I'm Ed's daughter, Emily, he couldn't make it.

MR. ARGENIO: If it's the same one I'm thinking of I think we've seen this at least twice, maybe I've seen it a dozen times and I'm tired of seeing it on my notes.

MR. CELLA: I have it was last here February, 2008 at which time we got a referral to the ZBA and we've got, to refresh you guys, it's a 3 lot subdivision of 2.7 acres zoned R1, the lots will be serviced by individual wells and septic and they all front on Little Brook Court.

MR. ARGENIO: For the benefit of the members, can you please trace for us the lines of the original lot, simple as it was one big L-shaped lot.

MR. CELLA: Yeah, it's an L.

MR. ARGENIO: Now you have three lots?

MR. CELLA: Yeah.

MR. VAN LEEUWEN: Who are you, sir?

MR. CELLA: I'm Jonathan Cella from Zimmerman Engineering.

MR. ARGENIO: Go ahead, Mr. Cella.

MR. CELLA: So in the February meeting you guys referred us to the zoning board at which time we went back and we designed the septic systems and we got the variances granted on October 27, 2008, we needed a lot area variance for all three lots, lot width for lot 1 and 2 and the front yard and side yard setback for lot number 1 and they gave us all of them.

MR. ARGENIO: Is there a plan here that has proposed houses? So you have an existing foundation on lot 1 which I assume predates the subdivision?

MR. CELLA: Well, we had a building permit, we have a building permit for lot number 1, there's an open permit on that.

MR. VAN LEEUWEN: Which is now lot number 1?

MR. CELLA: Correct.

MR. BABCOCK: It was for the entire lot.

MR. CELLA: Yes, it was for the entire lot and he put the foundation in and then we started the subdivision.

MR. ARGENIO: So you have a variance too from the zoning for the foundation location on lot 1?

MR. CELLA: Yeah, we got a front yard and side yard setback, the side yard the eastern side yard.

MR. ARGENIO: Why is the septic field for lot 1/5 of the size of the other two septic fields?

MR. CELLA: That was designed by another consultant and

we're showing that on the map.

MR. ARGENIO: Have you verified the design is appropriate?

MR. CELLA: That was approved.

MR. ARGENIO: Your name is on these plans.

MR. CELLA: The design was approved as part of the issuing of the building permit by the New Windsor Building Department.

MR. VAN LEEUWEN: How many years ago?

MR. CELLA: I have a note on here it was designed in February, 2007.

MR. ARGENIO: Let me just share with you.

MR. VAN LEEUWEN: What's the perc there, excuse me. What's the perc there?

MR. BABCOCK: Seventeen.

MR. EDSALL: They don't provide any information for lot 1.

MR. CELLA: Yeah, we do we have nine minutes.

MR. VAN LEEUWEN: That's awful good for Beaver Dam Lake.

MR. ARGENIO: Henry, we're over on Toleman Road right down the road from your property going towards, let me just share with you, I think the spirit of what you're trying to achieve here is if my memory serves me is congruent with the neighborhood that's out there already. Am I right, Michael, aren't all the lots typically about the same?

MR. CELLA: They're about half an acre.

MR. ARGENIO: I don't think anybody's knotted up about that but I'll tell you I did sit on this board quite a few years ago when not only did an irate citizen come to this planning board and bang her hand on the table in front of me cause her septic field didn't work because the design was substandard or the installation was substandard, she came to my home, my house where I live with my kids and she knocked on my door and stalked me at my home because there was a problem with the foundation, so not the foundation but the septic, just want to make sure that it's going to work, it's important, it's very important, I think that's why Henry was asking the question he was asking.

MR. SCHLESINGER: Relative to that, Mark, the septic system could be outside of the setback line?

MR. EDSALL: Yes.

MR. BABCOCK: Yes, the buildable area line.

MR. SCHLESINGER: Yes.

MR. EDSALL: Has to be at least 10 foot from the property line, Mr. Chairman, you're concerned about the septic?

MR. ARGENIO: You've said exactly what I said here, I'm concerned there's significant disparity between the size of the system for lot 1 and those of lots 2 and 3.

MR. EDSALL: Again, we've all lived through the failures of various systems and no matter who designed it the complaint always comes to the Town of New Windsor so I'm very concerned that there's--

MR. BABCOCK: Who designed for lot 1?

MR. CELLA: All right, would you guys be in agreement if we redesigned it?

MR. ARGENIO: Here's what I think should happen.

MR. BABCOCK: It's not installed, right?

MR. CELLA: No.

MR. ARGENIO: Whatever you're going to do there you should get with Mark and make sure that he's okay with the percs and the design of the system.

MR. EDSALL: I think the answer is to just upgrade that to make sure it's right so we don't have a problem.

MR. ARGENIO: Are you guys okay with that? I think we should do that, I think it's smart because you probably do get the complaints but we get them and it's not right.

MR. CELLA: We're coming tonight to request a public hearing and could we get that contingent on approval of that system?

MR. ARGENIO: Can you get what?

MR. CELLA: A public hearing after we get the--

MR. VAN LEEUWEN: Well, we didn't vote on that yet.

MR. ARGENIO: Quite frankly, I think that typically the public when they come are not looking at septic systems.

MR. EDSALL: Normally, you want the information there but it would be fair to authorize it.

MR. BABCOCK: We don't set the date for the public

hearing, we authorize a public hearing. You'll need to get all that straightened out with Mark before we put you on for a public hearing.

MR. ARGENIO: I'm concerned, I'm reading from Mark's comments, I'm concerned the potable water line from the well to residence on lot 2 crosses a storm water pipe and easement, appropriate details of protection must be shown on the plan. Disposition of the drainage easement should on the plan must be reviewed with the highway super and attorney for the town, that's Michael Blythe. The easement contains private and public improvements. I'm not going to go through this, you have to get with Mark and work these things out.

MR. EDSALL: Just for the record, I did meet with the highway superintendent and the guidance as it may be that I need as to how he wants to handle it.

MR. ARGENIO: So you can share it?

MR. EDSALL: Yes.

MR. ARGENIO: If anybody sees fits, I'll accept a motion to declare ourselves lead agency.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor Planning Board declare itself lead agency under the SEQRA process. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: I think we should have the public hearing on this, Neil or Henry, do you guys have any thoughts?

MR. SCHLESINGER: Yes, I think we should have a public hearing.

MR. GALLAGHER: Yes.

MR. VAN LEEUWEN: I don't know, I'll go along with everybody else.

MR. ARGENIO: You can make your own independent decision and as I said earlier, they are congruent with the other lots in the area so it's not like the standard he's being held to is any different than any other parcels that are out there and I think it's fair and reasonable and equitable. So Mark?

MR. VAN LEEUWEN: I know some of the people that live out there they're not all that well put together but okay.

MR. CELLA: We did have a public hearing with the zoning board in October.

MR. VAN LEEUWEN: How many people were there?

MR. CELLA: Enough.

MR. ARGENIO: What's that tell you, Henry?

MR. VAN LEEUWEN: You told the truth.

MR. ARGENIO: To his credit. Mark, is it reasonable that we can get this septic thing worked out then schedule the public hearing, is that, can we do that?

MR. EDSALL: Yeah, if you authorize a public hearing, I'll work it out with him.

MR. ARGENIO: Yeah, I'll accept a motion that we authorize that subject to those plans being cleaned up to Mark's satisfaction.

MR. VAN LEEUWEN: So moved.

MR. SCHLESINGER: Second it.

MR. ARGENIO: Motion has been made and seconded we schedule a public hearing for Biagini. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Sir, thank you for coming in.

APPLE_RIDGE_SUBDIVISION_(08-16)

MR. ARGENIO: This application proposes the subdivision of a total of 197 plus acres into 103 clustered single family residential lots. The conventional subdivision plan as application 06-24 was previously reviewed at the 28 June, 2006, 25 October, 2006, 28 March, 2007, 12 September, 2007, 14 November, 2007 and 29 October, 2007 planning board meetings. And who says we move too fast, Bill? But to be very frank, the spirit of this subdivision has changed if I'm correctly informed in that the purpose for this visit tonight is that the applicant would like to propose to the planning board a clustered subdivision, is that right?

MR. PFAU: That's correct.

MR. ARGENIO: And as such for them to propose that clustered subdivision they need to verify in conventional fashion the appropriate lot count that can be allowed on this lot. And the clustering will be dictated by that appropriate lot count and I understand from Mark Edsall and some of my conversations with him that they have, they've come a long way since their first visit to effectively demonstrating to us an appropriate and lawful lot count, is that correct, Mark?

MR. EDSALL: Yes.

MR. ARGENIO: Substantially correct?

MR. EDSALL: Yes.

MR. ARGENIO: What's the matter?

MR. EDSALL: I couldn't say it better, I couldn't improve on it.

MR. ARGENIO: Would you fellas up there please

introduce yourself for the benefit of us and the stenographer? Joe, you can leave this on the chair there.

MR. PFAU: Joe Pfau.

MR. WALKER: Michael Walker.

MR. MUMFORD: Roger Mumford.

MR. ARGENIO: Go ahead, Mr. Pfau, tell us where you've been and where you'd like to head with this.

MR. PFAU: Okay, the plan we have in front of us as you stated earlier we had done revisions to the conventional plan, made modifications and we came up with a total of 103 units on both parcels and the proposal here is to cluster down to the front portion of the property and leave the remaining portions of the property as open space which, let me just turn this around again, colors you can see a little bit better, the tan is obviously where the development is going to be taking place, where the single-family housing is going to be, the light green will be open space, it will be an HOA type of open space and then the rear of the property the darker green is also open space but it will be privately owned. That's the proposal now with restrictions, covenants to maintain that open space, there's a total of 318 acres.

MR. ARGENIO: Can I ask one question on the open space? Who maintains that?

MR. WALKER: The open space with the, this would be--

MR. ARGENIO: The dark green in the back?

MR. WALKER: What we did there was some discussions last time about the ownership and the maintenance of that so what we did is we took 3 of the 103 units and

made three separate lots out of that so that these owners three individual owners would be responsible for the maintenance of that open space, the--

MR. MUMFORD: A lot of the open space is wooded there.

MR. ARGENIO: Yeah, Mr. Mumford, what are the three light colored squares?

MR. MUMFORD: They really represent building opportunities for an individual who purchases, for example, if you purchase this 80 acre farm this would be the driveway, this is where you could build a home and my assumption is the balance of the property would be deed restricted so no construction could take place other than dedicated farm buildings like a barn.

MR. ARGENIO: They would be the three lots of open space that you guys are referring to?

MR. WALKER: That's correct.

MR. ARGENIO: I interrupted you, go ahead.

MR. PFAU: The total property is 318 acres which 254 acres or 80 percent of the sites is proposed to be open space. The project itself will be central water and sewer facilities, we're proposing on-site water and sewer for the project. We do have a blue line stream that actually flows to the southwest of the property that would be right now what we're thinking of where our discharge point would be, we'd be drilling wells on site for the on-site water supply, everything will be on site and I will just point out there's an out-parcel on the property which is designated as this white piece right here which we're providing road frontage through the newly proposed roadways for that particular lot.

MR. ARGENIO: Where are you doing that? I don't see where you're doing that? Where is he getting his

frontage?

MR. PFAU: That tan area right here that you see it says land to be dedicated to now or formally Messler right here.

MR. ARGENIO: This area would be dedicated to this lot?

MR. MUMFORD: That's correct.

MR. EDSALL: It's a lot line change.

MR. ARGENIO: No problem, got it.

MR. PFAU: There are going to be two wetland crossings for the roadways, we have made submissions, we have actually had field visits and we expect to have the final delineations for both the New York State DEC and the Army Corps shortly, the lines that are shown there now are the lines that we anticipate to be the final lines for both.

MR. ARGENIO: What do you anticipate the impact area to be about?

MR. PFAU: I would say on the order of a quarter acre.

MR. ARGENIO: That's good.

MR. SCHLESINGER: I have a question, you don't have a copy of the original plan do you?

MR. VAN LEEUWEN: Yes, it's right here.

MR. PFAU: The 49 lot, the original cluster plan?

MR. SCHLESINGER: No, cluster is what you want to do now, you were before the board, you got a preliminary approval for what?

MR. BABCOCK: You should have it here.

MR. PFAU: It was a 49 lot subdivision with individual wells and septic.

MR. SCHLESINGER: So we're going from 49 lots to 100 and--

MR. PFAU: 103.

MR. SCHLESINGER: Is that correct?

MR. MUMFORD: Yes, and we're adding 120 acres to the application.

MR. SCHLESINGER: But I seem to remember discussions about the open land and the restrictions and everything we discussed that, right, okay, but once again the basis is we're going from some 40 lots to 100 and whatever it is, okay.

MR. PFAU: But that application was only for half of the property, what we did was we added a whole other farm, unfortunately, it's not going to show up.

MR. MUMFORD: The land was actually like this so this land wasn't contemplated in the application.

MR. EDSALL: Just for clarification in the minutes the old application was 06-24, that was before they obtained the additional lands. Because they increased the total lands area and changed the concept of the subdivision, we had them take out a new application which is 08-16. So the one you're thinking of that they had preliminary approval on they have actually closed out that application.

MR. SCHLESINGER: Done, okay, I just seem to remember unless I'm getting confused with some other application.

MR. ARGENIO: You're correct, Neil.

MR. EDSALL: They have acquired more lands and reapplied.

MR. ARGENIO: I will take that to the next step for them to do and I'm going to see a number 103 lots clustered they have to demonstrate that they can get 103 lots on there in a conventional fashion first before we'll even consider by statute the clustering. Mark, what I want to do is does everybody understand this, Dan and Henry, do you guys, Neil, do you understand what's going on here with this?

MR. VAN LEEUWEN: Yes.

MR. GALLAGHER: Yes.

MR. SCHLESINGER: Yes.

MR. VAN LEEUWEN: The property's right behind me so I should know.

MR. ARGENIO: Mark, I want to probe point number 2, the board should discuss the procedural steps per Section 278 of the local town laws with the planning board attorney to refer this cluster request to the Town Board for action. Can you shed some light on this?

MR. EDSALL: I could never fill in for our illustrious attorney but I'll do my best to give you some guidance. As you indicated, they have provided a, what I would consider just short of a preliminary plan to show us that the 103 lots work in a conventional fashion. There was some give and take, we asked for some additional information, they provided it, they lost some lots I think that's a realistic number. At this point, if I understand the procedure correctly from speaking with Dom Cordisco, you would need to make a

motion to accept that 103 count as being a reasonable number based on standard layout and then refer it to the Town Board for them to consider authorization of a cluster subdivision.

MR. ARGENIO: I don't know that I'm going to, I certainly wouldn't purport to correct you, Mark, but I do want to make one comment, you use the term reasonable, I think we would be substituting the word lawful.

MR. EDSALL: That's fine.

MR. ARGENIO: Would you agree with that lawful in accordance with the code of the Town of New Windsor?

MR. EDSALL: Yes.

MR. ARGENIO: Do you follow me on that?

MR. VAN LEEUWEN: Yes.

MR. ARGENIO: You have reviewed it and you agree that the count is appropriate?

MR. EDSALL: Yes.

MR. ARGENIO: And lawful?

MR. EDSALL: Yes.

MR. ARGENIO: Well, it's important cause I don't want anybody to think that this is subjective and we wave our wand and we say we're in a good mood tonight so it's okay, whereas next week we're not in a good mood, it's objective not subjective.

MR. EDSALL: They did provide the critical bulk values for each lot to show each lot met lot width area and so on which the basic requirements for a lawful lot and

also road profiles to show that legitimate roads could be built.

MR. ARGENIO: Not 17 percent steep roads.

MR. EDSALL: That's right, speaking with both yourself, Mr. Chairman and Mr. Cordisco, we agreed that the intent is not that although some boards apparently require it but it's, I don't think it's reasonable that you prepare a complete plan because then you're not doing a complete design.

MR. ARGENIO: To what end?

MR. EDSALL: So we basically had them demonstrate in a reasonable fashion that they could construct what they are proposing and create those lawful lots so I think that's where we're at, the 103 I believe from my review is legitimate and lawful and you need to at this point refer it to the Town Board.

MR. ARGENIO: Do you guys have any questions about that?

MR. VAN LEEUWEN: I will tell you something, I like this a heck of a lot better than I do the first one with all the little pieces of land.

MR. ARGENIO: I'm kind of on the fence.

MR. GALLAGHER: That's a homeowners' association, the three lots that are down below would also be connected to the homeowners' association?

MR. WALKER: No, they'd be privately owned.

MR. ARGENIO: Now--

MR. EDSALL: Obviously, the board will have the opportunity to look at the deed restrictions both for

the clustered area and for those three lots that will come I suggest after the Town Board either says yeah or nay on the cluster.

MR. ARGENIO: I just have one question about the three I'll call them residual lots, they are not part of the HOA, is that correct?

MR. WALKER: They could be but there would be no reason to, they don't need any of these facilities they wouldn't need.

MR. ARGENIO: They need the road to get to their house.

MR. WALKER: Well, the road would be a public road.

MR. ARGENIO: It will be a public road so when you say they don't need the facilities what you mean is they don't need sewer and water?

MR. WALKER: Correct.

MR. ARGENIO: So they would go on well and septic as such not being part of the HOA, what else does the HOA offer the residents?

MR. WALKER: The open space surrounding each of the homes, the sewer and the water services.

MR. ARGENIO: What do you see in those open spaces, the light green?

MR. WALKER: I see them as undisturbed areas.

MR. ARGENIO: I see, do you accomplish that in the form of some sort of legal document of sorts?

MR. WALKER: Yes, it would be legal as Mark said there will be legal documents with respect to restrictions that would outline what can and can't be done, for

example, there's an existing farm roads which could be used for hiking and running and that would be appropriate but removing trees or buildings, structures would be prohibited.

MR. ARGENIO: I would think it would be self-policing by the owners of the property in the area.

MR. WALKER: That's correct.

MR. ARGENIO: Who pays the tax on this land?

MR. WALKER: All the homeowners do.

MR. ARGENIO: The HOA?

MR. WALKER: Yes, which is sent to each homeowner.

MR. ARGENIO: Who do we collect from Mike or Mark, who does the town collect from?

MR. BABCOCK: You, you collect from the homeowner and HOA both cause the homeowner's going to own their individual lots they would pay taxes on unless they're included, right?

MR. WALKER: You're correct.

MR. ARGENIO: And the HOA is funded then by the homeowners. Suppose they don't pay?

MR. BABCOCK: That's their problem.

MR. ARGENIO: It's our problem if we're collecting the taxes and we can't collect it.

MR. EDSALL: I think Mr. Cordisco will find this is not the first time this has been done in the state and there's a way to have a backup mechanism of levying the charges against the individual lots if the HOA fails to

comply.

MR. BABCOCK: The condo association has to pay the tax and if some homeowner doesn't pay they go after the homeowner.

MR. ARGENIO: Don't want the town to get hosed. Okay, I'm way ahead of myself. If anybody sees fit, I will accept a motion that we make recommendation to the Town Board that we accept the lot count on this that Mark has reviewed and we can, we concur with his findings.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that the Town of New Windsor accept the lot count as it's represented to us here tonight at is it 103, Mark?

MR. EDSALL: It's 103 and I'm going to suggest that you authorize the attorney to prepare a report to the Town Board cause I'm not quite sure how 278 reads so he may have to do a report.

MR. ARGENIO: I agree with that the number is 103, Franny, for the record, I have a motion and a second and it's subject to Dominic preparing the resolution following the appropriate procedural steps in Section 278 of the Town Law. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Thank you for coming in. You have been very informative.

DISCUSSION

JERRY_SABINI

Mr. Gregory Shaw, Jr. appeared before the board for this discussion item.

MR. ARGENIO: Guys, this is a discussion item, Greg set up right here, this is the parcel next to Price Chopper just to the north I believe it to be between Strober King and Price Chopper, it's like a medium commercial development.

MR. BLYTHE: Next to the bank.

MR. ARGENIO: Yes, next to the bank. Mr. Shaw is the engineer, Mr. Sabini is the owner. It's on as a discussion item cause there's been no technical work done on this at all. There's no drainage, there's no ponds, there's no yield calculations, at least not that I'm aware of. What Mr. Shaw is here is just to briefly tell us this is what his owner would like to do with this parcel and just to get a little feedback. They just want to tell us what they want to do here, just to get a little feedback from us to make sure they're going in the right direction. With that, I'll leave it with Mr. Shaw.

MR. SHAW: This project was before you about three years ago under MCB Properties and Mr. Sabini is in contract to buy it and I, like he said, we have this concept plan we're looking for feedback from the board. We have a 30 foot wide entrance drive, Mr. Sabini wants to have a fitness center which has pretty much been the focal point, we're going to have a car wash and storage facility in the back and then we took these extra pad sites and maxed them out in terms of usage for parking and then he's going to kind of decide what he wants to do later, maybe a restaurant.

MR. SABINI: Automotive probably here.

MR. SCHLESINGER: I get the picture.

MR. SHAW: So as we said, it's a pretty much stripped down drawing showing all the appropriate parking and our buildings and just kind of getting some feedback from the board in terms of what they need.

MR. ARGENIO: Fitness center?

MR. SABINI: Twenty-four hour fitness, I'm talking to Planet Fitness and Gold's Gym as another offshoot, they're like \$15.95 a month.

MR. ARGENIO: The fitness center would be perfect, we have the Covington thing going across the road over there.

MR. SABINI: All the other fitness centers are 60 to \$75 a month, these guys come in and they franchise it and it's \$16 a month, lot of parking.

MR. VAN LEEUWEN: Didn't we approve a building?

MR. BABCOCK: No, you have the plan for MCB?

MR. SHAW: No, not with me, it was through the planning board stage and they pulled out.

MR. ARGENIO: That was in front of us. you're thinking about climate controlled storage in the back?

MR. SABINI: Yeah, another self-storage tower in the back, not till the other one stabilizes, wouldn't be for a few years.

MR. ARGENIO: Not going to fall down, is it? You mean financially?

MR. SABINI: It's a wild alligator, I think it's three percent occupied, so I wouldn't do anything with that.

MR. VAN LEEUWEN: That's all?

MR. SABINI: Well, it's only 30 days, that's not that bad.

MR. SABINI: This one's a full service car wash like the one on 17K, you get out of the car, you walk through.

MR. ARGENIO: That's a nice car wash.

MR. SABINI: You get out of the car, you see your car go through the glass and at the end it gets attacked by seven guys, windshield and everything you wouldn't do to your own car.

MR. SCHLESINGER: This is all concept?

MR. SHAW: Yes.

MR. SCHLESINGER: This is your business thoughts in your mind that you'd like to see another car wash there? But if you get somebody that's interested in the spot that wants to sell woman's clothing in a retail store then this is just--

MR. SABINI: Yeah, well, actually, I want to take the car wash myself.

MR. BABCOCK: You're not going to get a car wash approved and go to woman's clothing, the parking's different.

MR. SCHLESINGER: No but he's not opening up a car wash himself.

MR. SABINI: Yes, I am, the car wash I'm going to do,

I've got to get an anchor, we need two anchors and then when I get these two anchors I'm going to do the car wash, I'm going to keep that.

MR. SCHLESINGER: I thought he as the developer is just telling us he'd like to put in five buildings in here and as a developer he'd like to see a car wash, he'd like to see a fitness center, blah, blah, blah, that's not what he's asking for. He's asking for approval on the constant of developing this piece of property, not for a car wash, not for a fitness center, we're just talking--

MR. ARGENIO: What I'm hearing he's a step beyond what your typical developer would be, you said you talked--

MR. SABINI: Yes, I talked to these guys, I'm close to signing these guys, it's pretty close, once I get this I know this is locked in and I'm going to keep the self storage, I want to keep the car wash for myself, I would operate that and I have these two other boxes left.

MR. VAN LEEUWEN: Two restaurants?

MR. SABINI: I've been talking about that, what's that bank, Walden Savings Bank, I've been in touch with those guys and I forget the other one.

MR. SCHLESINGER: Mike, getting back to my question that's where I'm losing you, he's here, he wants to put a building here, A, B, C, D building, he wants to make sure that he has enough parking for the buildings and everything but he's not here to get an approval for a car wash or for a fitness center, I just want to make sure why he's here and what we're going to give him the approval for.

MR. EDSALL: Let me put an end to the circle we keep spinning in here. When you get a site plan approval

it's based on uses that are in the code, the parking that's related to those specific uses has to be nailed down as Mike indicated, the parking between an office and retail may be the same. So to switch back and forth on those two is not a problem. But if you get approval for a car wash, you can't put a movie theater in there because there's different parking requirements. So what he's asked for is what he's approved for, you can't unilaterally change it, Jerry's to come in and he's going to have a plan, those two boxes with the restaurants could change to retail because restaurants are more intensive.

MR. SABINI: It's more parking for a restaurant.

MR. SCHLESINGER: He went to the extreme and if he has to change it he's going to go back which is no problem.

MR. EDSALL: Some of the elements are, have to be locked in, they can't change just arbitrarily.

MR. ARGENIO: Henry?

MR. VAN LEEUWEN: Jerry's no dummy and I know him but do you know that there's two car washes already in Vails Gate?

MR. SABINI: Those other car washes go through them, you have to vacuum your own car and you've got to Windex your own windows.

MR. ARGENIO: Have you been to the car wash on 17K? It's fantastic.

MR. SABINI: I copied his car wash, it works and he has the lube.

MR. SCHLESINGER: As one businessman to another, what happens if the other car wash changes their procedure?

MR. SABINI: They can't, the tube is only 80 feet long, this tube's 120 feet long.

MR. SCHLESINGER: He can put three guys in the front, three in the back.

MR. SABINI: When by the time he gets out of the tube it's done.

MR. ARGENIO: This is good light to medium commercial here, it's not smoke stack, I mean, my opinion is from a conceptual point of view, it's probably a decent use for this piece, that's how I feel about it and as I said, he's here to introduce us to it. What do you guys think? Is somebody stomping their feet about anything negative here?

MR. VAN LEEUWEN: Not me.

MR. GALLAGHER: No.

MR. VAN LEEUWEN: I might want to stomp my feet anyway.

MR. SCHLESINGER: One last question. Are you the developer?

MR. SABINI: Yes.

MR. SCHLESINGER: Who's Sheila?

MR. SABINI: She's my righthand man but she doesn't look like a man.

MR. EDSALL: Greg, do you show, I did see a plan with Myra, what do you show for the parking requirement for a restaurant?

MR. SHAW: One space per five seats.

MR. EDSALL: That's a problem, it's one per 3 so that

has about an impact of about 53 parking spaces on your site, so you need to look at that.

MR. SHAW: Well, the site right now is required at 219, obviously, our numbers can be bumped up a little bit, we have provided 258.

MR. EDSALL: I knew you had extra so just doublecheck that and rework the numbers.

MR. SHAW: Sure, but that extra parking should take care of that.

MR. ARGENIO: You have your direction. Thank you for coming in. Take care.

COVINGTON_ESTATES_SITE_PLAN_(01-41)

Michele Babcock, Esq. and Mr. Ross Winglovitz appeared before the board for this proposal.

MR. ARGENIO: Mark, can you please share for the benefit of the members why the Covington Estates folks are here? We certainly have talked to them quite a few times.

MR. EDSALL: As I understand it, they need a reapproval, they had quite a number of procedural issues they were resolving both as part of the developer's agreement and I believe some layout issues on the site and unfortunately in accomplishing those items the approval which in the Town of New Windsor site plans do expire, some towns they don't, had that expire and they're seeking a reapproval from the town.

MR. BABCOCK: Has it expired yet?

MR. EDSALL: It's close enough that it's going to happen.

MS. BABCOCK: The 21st.

MR. EDSALL: It's impending, I'm not aware of any--

MR. VAN LEEUWEN: We approved it already, right?

MR. EDSALL: Yes.

MR. ARGENIO: Well just want to--

MR. EDSALL: I'm not aware of any zoning changes so my suggestions as per your normal procedure when you reapprove a project is to ask the attorney to prepare a new authorization, a new resolution authorizing a conditional approval based on the same conditions that you had imposed on the prior approval.

MR. ARGENIO: I'm going to look at Mr. Winglovitz and I'm going to ask you any change in the plans?

MR. WINGLOVITZ: No.

MR. ARGENIO: Since then there's been no changes?

MR. WINGLOVITZ: No.

MR. ARGENIO: And they were reviewed that stuff we went there this summer?

MR. EDSALL: Yes.

MR. ARGENIO: Nice, honest and succinct answer. Michele, do you have any thoughts on this? Is there anything else you need to go over?

MS. BABCOCK: No.

MR. ARGENIO: Mark, is there anything else that I need to know about this?

MR. EDSALL: I would suggest that you just from a procedural standpoint you had full SEQRA information submitted, to my knowledge, there have been no issues that have changed which would require that you reopen SEQRA, I think that should be put into the record.

MR. ARGENIO: You just did that.

MR. EDSALL: As well I think you should go on record indicating that you have had adequate public hearings on this and that there's no new information or conditions why you would have to have a new public hearing and then you could authorize the resolution.

MR. ARGENIO: Assuming you guys probably somebody took the project there's some legal thing happening and

that's why it's not moving which is not my business.

MS. BABCOCK: We're still just working to meet the conditions of approval.

MR. ARGENIO: Okay.

MR. VAN LEEUWEN: So moved.

MR. ARGENIO: Neil, do you have any problem? I'll accept a motion that we, Mark, correct me if I use the wrong verbiage that we reapprove this plan.

MR. EDSALL: Yes.

MR. ARGENIO: Correct, and that the SEQRA data nothing has changed of any substance and that's gonna remain as is.

MR. EDSALL: And I would suggest that the 360 days commence on the date of the expiration from the prior approval and Dom can include that in the resolution.

MR. ARGENIO: I will accept a motion.

MR. VAN LEEUWEN: So moved.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that we reapprove Covington Estates. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

REVIEW_AND_RECOMMENDATION_-_TOWN_2009_COMPREHENSIVE_

PLAN_UPDATE

REVIEW_AND_RECOMMENDATION_-_DGEIS_FOR_COMPREHENSIVE_

PLAN

Mr. Stu Turner and Mr. Fred Doneit appeared before the board for this discussion.

MR. ARGENIO: I believe next on the agenda is Mr. Stu Turner. And Fred, do you have the map? A lot smarter people than me have done a lot of work.

MR. TURNER: Well, they should be in the documents.

MR. ARGENIO: This is the document delivered to your house, this is the zoning?

MR. TURNER: No, this is still the plan, master plan review comprehensive plan.

(Whereupon, Supervisor Green entered the room.)

MR. ARGENIO: The deal is that Fred and Stu have been working on this thing as have Supervisor Green and the Town Board, myself, Dominic Cordisco, Michael Blythe, this has been going on for how long, Mr. Supervisor?

SUPERVISOR GREEN: When did the board start?

MR. TURNER: We started with the, a committee and several public meetings so there was a master plan committee that worked on this, advised us that went on for I think about a year the draft came out of that committee and that went back then as Jerry said to a group, a working group, the infrastructure committee which I think you're familiar with made further refinements, we then submitted the final draft to the Town Board for their approval. They are the only board that can act to approve it but they would like to have

the input from the planning board and there will be a public hearing tomorrow night to have additional input from the community and once that's accomplished then the plan will be before the Town Board for adoption. Hopefully, they'll have a report from the planning board between now and the time they act on it, doesn't have to be by tomorrow night but before they act on it.

MR. EDSALL: It will be ready, I've worked this out with Dom.

MR. ARGENIO: I had these documents delivered to your respective homes, I brought yours to you, you live out in the west end near me, somebody brought it to you, somebody brought it over to the restaurant for Neil and what we're looking for tonight is if you guys have any questions for Fred, I know Fred Doneit.

MR. TURNER: He's been the principal staff person that's been working on it, we've had a team effort on your end, team effort on your end, hopefully we've got something that everyone can live with. I think it reflects the town's goals, multiple goals, economic development, conservation, protection of the neighborhoods, accommodation of new development, economic development, take advantage of the hopefully the engine that's generated by the airport.

MR. ARGENIO: The maintaining of the Stewart parklands.

MR. TURNER: Maintaining of the Stewart parklands.

MR. ARGENIO: So I asked Fred and Stu to come in here tonight in case you guys had any questions because I'd like to make a recommendation to the Town Board tonight, that's why I had them delivered to your house and if you had any questions you can certainly ask it here in addition to that, if even after tonight if you have another comment to be made we're not the board that adopts this master plan, the Town Board will adopt

it. So if anybody has any thoughts to, when are you going to adopt it, George?

SUPERVISOR GREEN: Well, tomorrow night will be the public hearing and 10 days after the public hearing public has 10 days to submit comments, the comments will be looked at, answered and hopefully within 30 days but that the, we're actually looking at the March meeting.

MR. TURNER: There are two documents, one is the plan and one is a generic, an environmental impact statement so it evaluates the potential impacts of the plan and that document is also subject to public scrutiny so that hearing tomorrow night I think is on both documents.

MR. GREEN: Both.

MR. TURNER: Once that hearing is closed there's a comment period, it's 10 days on the plan but I think it's at least 30 days on the EIS so the Town Board will not really be able to act for 30 days.

MR. SCHLESINGER: How accurate is this map here because I know that some of the area that's in yellow is in the Town of Blooming Grove.

MR. BABCOCK: No, that's the railroad tracks.

MR. TURNER: We'll acknowledge that there may be errors in lot lines and things like that, I think we got the town boundaries right.

MR. ARGENIO: Neil, a lot of effort was put into trying to eliminate, Stu, correct me if I get this wrong, a lot of effort was put in to try to eliminate the situation that other than myself I think you're the next senior guy here that we fight for years in that corridor on 32 where half of the zone was in the front

of the property along 32 across from Ronny Lander and the back of the lot was in the R-4 zone and it's something we have wrestled with for years. And I think one of my first things that I had said early on at the infrastructure committee meeting was that we want to try as best we can to eliminate that kind of business that the zone lines need to follow the property lines as best we can. We know we cannot do it in every instance but to the greatest extent possible we try to do that and that's why Stu sought out the input from everybody, from George to me I've been here the longest I think on the planning board and that's why I had the thing delivered to your houses so you guys could take a look at it and here we are.

MR. VAN LEEUWEN: All of 32 was 500 foot commercial and all residential and Ted Marsden did that I remember when he did it.

MR. ARGENIO: It was a mistake.

MR. TURNER: It may not reflect what Jerry's talking about because this is the plan that it says it's going to, zoning map is going to reflect trying to go along lot lines rather than splitting lots, so when that's translated into a zoning map that's the policy that's stated in the plan to be followed.

MR. ARGENIO: We know we have not achieved that everywhere but one of the goals was to try to do that as much as we could.

SUPERVISOR GREEN: Jerry, if I may, what the board has to remember is that the map is a plan, the map is not the zoning map per se and the zoning map will follow as we change the zoning and also may interest your board that tonight we received the approval from the Orange County Planning Board on the plan.

MR. ARGENIO: That's pretty big.

SUPERVISOR GREEN: So that came through today. Fred, do you have any comments?

MR. DONEIT: We're prepared to give a brief overview of the plan and recommendations if the board would like to hear that night otherwise we can save it for tomorrow or we can answer any other questions you may have.

MR. ARGENIO: Let me say this, the instructions that I hope were conveyed to the members this was my request was to review the document if you have any questions give me a call and maybe I can answer them. If not, certainly bring them up at a meeting. I haven't gotten any calls so I would think for the most part everybody is pretty much okay for the most part and as I said as, you continue to review it tomorrow, the next day or the day after that, if you have a comment, the public comment period is open but from a planning board point of view I think we have again I'm one member and we're going to vote, I think that we have come a long way with this and it accurately reflects the needs of the town moving forward. Anybody have any questions?

MR. VAN LEEUWEN: I agree, I don't have any questions, I've seen it.

MR. SCHLESINGER: I agree, no questions.

MR. GALLAGHER: No questions.

MR. ARGENIO: As such, I'll accept a motion that we make a positive recommendation to the Town Board of the Town of New Windsor that they accept this plan as it is.

MR. EDSALL: Would you consider having that authorizing the planning board attorney to prepare the report to the Town Board and the positive recommendation be on both the GEIS and the master plan or comprehensive

plan?

MR. VAN LEEUWEN: Motion.

MR. GALLAGHER: Second it.

MR. ARGENIO: Motion has been made and seconded that we accept both of these documents and authorize the attorney to prepare a resolution for presentation to the Town Board reflecting the same. Roll call.

ROLL CALL

MR. SCHLESINGER	AYE
MR. GALLAGHER	AYE
MR. VAN LEEUWEN	AYE
MR. ARGENIO	AYE

MR. ARGENIO: Fred, especially and certainly Stu thank you very much for the hard work, I know Fred worked very hard, thank you from the planning board for all you have done to try and get this thing tied up in a timely fashion. I'd like to think that government works and here's a good case of where it does work. Everybody's worked hard, so thank you very much. Anybody have anything else? Thank you.

MR. DONEIT: What we did do is just prepare a little memo on just the main highlights of the plan. What I'm going to do is just pass that around and if there's any additional questions.

DISCUSSION

BRITTANY_TERRACE

MR. SCHLESINGER: Brittany Terrace, I don't know what the right terminology is, 55 years and older community?

MR. ARGENIO: Some such thing.

MR. SCHLESINGER: Is that in stone, do they have to meet certain qualifications or anything?

MR. EDSALL: If it's a senior housing site, it's deed restricted.

MR. BABCOCK: This is a mobile home park.

MR. EDSALL: You're talking about an existing mobile home park? That's voluntary.

MR. SCHLESINGER: That's a voluntary thing.

MR. BABCOCK: But they do it with the State of New York, it's--

MR. EDSALL: Tax credits.

MR. BABCOCK: Yeah, I'm not sure, I can get you that.

MR. SCHLESINGER: But does that recognize any zoning?

MR. EDSALL: Has nothing to do with the town's approvals.

MR. SCHLESINGER: Nothing to do with it at all?

MR. EDSALL: No.

MR. VAN LEEUWEN: He told me one time he felt that he would have a better class of people if he got senior

citizens in there.

CLUSTER_DEVELOPMENTS

MR. SCHLESINGER: Second question and I don't know why I have a deja vu with this cluster development but I seem to remember reviewing that plan with the additional property that was purchased, I just have it in my mind and I don't know why cause I know in my mind I had an objection to what they were going to use the other property for, restrictions, deed restrictions so forth and so on but I guess I must have been dreaming this in my mind.

MR. BABCOCK: We still have that file, we don't throw them away, come in and look.

MR. SCHLESINGER: I just have a thing in my mind.

MR. EDSALL: You're absolutely right that there were variations of the plan before they settled on what they wanted and because it changed so many times is exactly why we decided to tell them start a new application cause it's too confusing.

MR. SCHLESINGER: Which will bring me to my second question, a cluster plan different zoning now somebody said I don't remember who it was it has to be--

MR. EDSALL: It is effectively a zone hole, it's created by the Town Board.

MR. SCHLESINGER: It has to be approved and created by the Town Board?

MR. EDSALL: Right now there's only one cluster in the Town of New Windsor and it's CL1 and it was everything we did wrong there we'll try to do right now so the Town Board is going to approve CL2 if they decide they want to so it effectively creates new standards for

that property.

MR. GALLAGHER: The zoning up and down 32, does any of that get grandfathered in, 32?

MR. ARGENIO: I think most of the corridor is going to remain C or NC.

MR. GALLAGHER: It's all commercial?

MR. BABCOCK: The last guy by Flag Guys was approved by you guys, the bank, it's over--

MR. GALLAGHER: What would the house be that's on the corner across from the bank that's getting built on the corner of Willow and 32?

MR. SCHLESINGER: That's a bank.

MR. GALLAGHER: Up on the hill.

MR. BABCOCK: That's the end Willow quits that's residential.

MR. GALLAGHER: Across from the bank, across from Jimmy's.

MR. BABCOCK: Willow is the end.

MR. ARGENIO: Motion to adjourn?

MR. GALLAGHER: So moved.

MR. VAN LEEUWEN: Second it.

ROLL CALL

MR. SCHLESINGER AYE

MR. GALLAGHER AYE

MR. VAN LEEUWEN AYE

February 3, 2009

68

MR. ARGENIO

AYE

Respectfully Submitted By:

Frances Roth
Stenographer

